

REMARKS

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

- I. Claims 1-28, 40, 54-61, and 78-89, drawn to methods of stimulating remyelination or proliferation of glial cells in a mammal, by administering antibodies, classified in class 424, subclass 142.1, for example.
- II. Claims 29-34, 40, and 90, drawn to methods of stimulating proliferation of glial cells *in vitro*, classified in class 424, subclass 130.1.
- III. Claims 35-41, drawn to methods of stimulating remyelination of axons by introducing glial cells into a mammal, classified in class 424, subclass 93.7.
- IV. Claims 42-44, 62-65, and 73, drawn to antibodies, classified in class 530, subclasses 387.1 and 388.15.
- V. Claims 45-51, 66-72, and 74, drawn to DNAs, vectors, host cells, vaccines, and methods of purifying polypeptides, classified in class 536, subclass 23.1, and class 435, subclasses 320.1, 252.3, 326, and 69.1.
- VI. Claim 52, drawn to a method to screen drugs, classified in class 435, subclass 30.
- VII. Claim 53, drawn to a test kit, classified in class 435, subclass 7.1.
- VIII. Claim 75, drawn to a method of inducing an immune response in a subject by administering an antibody, classified in class 424, subclass 142.1.
- IX. Claims 76-77, drawn to methods of imaging, classified in class 424, subclass 134.1, for example.

Responsive to the Requirement for restriction, Applicants elect to prosecute the invention of Group IV on, with traverse, Claims 42-44, 62-65 and 73, which are drawn to antibodies, classified in class 530, subclasses 387.1 and 388.15.

In addition, the Examiner asserts that Applicant's claims are directed to numerous patentably distinct antibodies and requires that Applicant elect one antibody, polyclonal or

monoclonal. The Examiner further requests that if a monoclonal antibody is elected, Applicant must specifically choose one of the antibodies from the group sHlgM22 (LYM 22), ebvHlgM MSI19D10, sHlgM46 (LYM 46), ebvHlgM CB2b-G8, or MSI10E10. With regard to this further restriction, Applicants elect monoclonal antibody, and particularly antibody sHlgM22 (LYM 22), with traverse.

Applicants respectfully request reconsideration of the Requirement for Restriction, or in the alternative, modification of the Restriction Requirement to allow prosecution of more than one group of Claims designated by the Examiner in the present Application, for the reasons provided as follows.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one Application may ... be restricted to one of the inventions." Inventions are "'independent'" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "'distinct'" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, AND ARE PATENTABLE OVER EACH OTHER" (MPEP 802.01) (emphasis in original). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Further, under Patent Office Examining Procedures, "[i]f the Search and Examination of an entire Application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions" (MPEP 803, Rev. 8, May 1988) (emphasis added).

Applicants respectfully submit that the groups and the restriction within the groups designated by the Examiner fail to define compositions and methods, with properties so distinct as to warrant separate Examination and Search. Applicants respectfully request that the Examiner examine claims of Group IV, drawn to antibodies and Group V drawn to DNAs

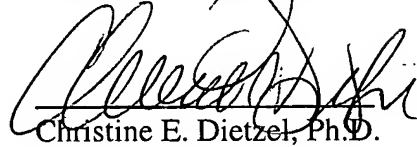
encoding said antibodies, etc. Claims 42-44, 62-65 and 73 of Group IV are drawn to antibodies that are fundamentally related to Claims 45-51, 66-72 and 74 of Group V, drawn to DNAs, vectors, host cells, vaccines and methods of purifying polypeptides, all with respect to the said antibodies. In particular, Applicants note that the Examiner has requested that one monoclonal antibody of Group IV be elected. Applicants have above elected sHIgM22 (LYM 22) with traverse. Applicants request that the Examiner permit prosecution of claims drawn to the sHIgM22 antibody (of Group IV), along with claims 45-51, 66-72 and 72 drawn to DNAs, vectors, host cells, vaccines and methods of purifying polypeptides, particularly as they encode and/or relate to the sHIgM22 (LYM 22) antibody. The search for any of the antibodies separately classified by the Examiner as the invention of Group IV would require an additional search of the identical classes wherein the DNAs, vectors, host cells, vaccines and methods of purifying polypeptides, related to said antibodies of Group V are classified, thus resulting in a duplicate search for the same material. Thus, Applicants submit that the Search and Examination of the entire Application, or, at least, of Group IV with Group V, as they particularly relate to sHIgM22 (LYM 22) can be made without serious burden, and therefore request that the Examiner examine all of the claims of Groups IV and V as they relate to sHIgM22 (LYM 22) antibody in the Applicant on merits.

The Examiner's assertions to the contrary notwithstanding, Applicants respectfully submit that conjoint examination and inclusion of all of the Claims of the present Application, as they relate to sHIgM22 (LYM 22) would not present an undue burden on the Examiner, and accordingly, withdrawal of the Requirement for Restriction, or, at the least, modification to include the Claims drawn to Group IV and Group V, as they relate to sHIgM22 (LYM 22) is in order.

No fees are believed to be necessitated by the foregoing Response. However, should this be erroneous, authorization is hereby given to charge Deposit Account No. 11-1153 for any underpayment, or credit any overages.

In view of the above, withdrawal of the Requirement for the Restriction is requested, and an early action on the merits of the Claims is courteously solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christine E. Dietzel", written over a horizontal line.

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